



SAY 3731  
D/H  
#  
6  
12-22

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of )

Examiner: G. Jackson

Harry J. Buncke )

Group Art Unit: 3731

Serial No.: 859,887 )

File No: 447P

Filed: May 21, 1997 )

For: SURGICAL METHODS USING )  
ONE-WAY SUTURE )

RECEIVED

DEC 16 1998

Group 3700

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING  
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST  
CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF  
PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20231

ON

December 7, 1998

THOMAS M. FREIBURGER REG. NO. 27,063

SIGNED

DATE

12-7-98

RESPONSE

This is in response to the official action mailed August 7, 1998. A petition for a one-month extension is enclosed herewith, accompanied by the required fee.

In the official action, claims 1-26 were allowed, while claims 27-29 were rejected under Section 102 and Section 103.

The claims were rejected in view of the Sander patent. However, the Sander patent is not believed to show or teach what is claimed in claims 27-29. The Sander patent teaches a device 10 which includes a suture 16, the suture 16 being flexible and being the only suture associated with the device. The suture is also the only component disclosed and depicted as being flexible.

Connected to both ends of the flexible suture 16 are a pair

of "anchoring members" 14, which include barbs 16. At the extremities of these anchoring members are the needles 12 of this double-armed device.

The "anchoring members" 14 are not disclosed by Sander as being flexible. The summary of invention states that the anchoring members "essentially comprise absorbable rods". Column 3, lines 44 et seq., describes these anchoring members as constructed of a "bioresorbable material, such as homopolymers and copolymers of lactide, glycolide, polydioxanone, trimethylene carbonate, etc." That passage also states that the "flexible material 16 allows for movement of the anchoring members 14 with respect to one another."

Thus, the disclosure clearly implies that the anchoring members 14 are not in themselves flexible, at least not flexible in the manner of a suture (sutures, of course, are very well known to be highly flexible).

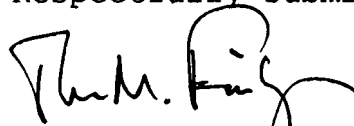
Claim 27, on the other hand, recites a one-way suture having a series of exterior barbs, that suture being secured to a surgical needle by a detachable connection means. Claims 28 and 29 incorporate the subject matter of claim 27. Claim 28 recites that the suture is a double armed suture, with two needles and with the barbs of the double arm suture extending in opposite directions in the portions adjacent to the two different needles.

If Sander showed sutures which were barbed, from the trailing end of the needles back to a juncture point, then Sander would be highly relevant prior art. However, Sander only discloses and teaches anchoring members 14, which do not appear

to be suture-like in properties. This is not the present invention, and it is not believed to teach the present invention. Sander failed to recognize the use of a suture which is barbed and releasable from a needle, and the attendant utility of such a suture, and particularly did not recognize such a construction in a double-armed device.

It therefore seems that claims 27-29 should be allowed along with claims 1-26. Favorable action is respectfully solicited. However, if the Examiner believes any issue remains as to patentability of the claims, he is asked to telephone the undersigned attorney before issuing a further action.

Respectfully submitted,



Date: December 7, 1998

Thomas M. Freiburger  
Reg. No. 27,063  
650 California Street, 25th Floor  
San Francisco, California 94108  
415-781-0310